

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 12, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:08HD-171 & -172

Hawaii

Grant of Term, Non-Exclusive Easements to The Nature Conservancy for Educational "Respecting Coral Reefs" Sign Purposes, Puako, Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-9-01:02 por. & 6-9-06:03 por.

APPLICANT:

The Nature Conservancy, a non-profit corporation organized and existing under the laws of the District of Columbia, whose business address is 4245 N. Fairfax Drive, Arlington, VA 22203-1637, and whose mailing address on the Island of Hawaii is P.O. Box 6600, Kamuela, HI 96743.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Puako, Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3rd/ 6-9-01:02 & 6-9-06:03, as shown on the attached maps labeled Exhibits A-1 and A-2.

TMK/ ZONING/ ENCUMBRANCE/ AREA:

TMK	ZONE		PARCEL AREA	EASEMENT AREA	ENCUMBRANCE
	LUC	CZO			
3 rd / 6-9-01:02	Urban	Open; SMA	50.501 ac	10 sf*	Portion encumbered by GL S-5863 to Hale Puako, LLC to maintain encroaching seawall
3 rd / 6-9-06:03	Urban	Open; SMA	15,064 sf	10 sf*	None

*Approximate footprint of sign only, excluding any access corridor from public road. Actual easement area, including access corridor, to be determined by survey.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO X

CURRENT USE STATUS:

Vacant and unencumbered (with the exception of General Lease No. S-5863 covering the seawall encroachment on TMK 3rd/ 6-9-01:02 as noted above).

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove educational signs (one per parcel) regarding coral reefs and their protection over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3 for "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and alteration and modification of same. . . ." Also applicable is Exemption Class No. 4 for "Minor alteration in the conditions of land, water or vegetation", and Item No. 4 thereunder that states "Minor cut, fill and grading of state property of less than 50 cubic yards of rock and/or soil where the vertical height of cut or

fill does not exceed three feet."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 2) Obtain a Special Management Area (SMA) permit or an SMA exemption; and
- 3) Comply with the Americans with Disabilities Act, as amended, to the extent the Act applies to the installation and maintenance of the signs on unencumbered and vacant State land.

REMARKS:

Applicant, The Nature Conservancy (Applicant), requests term easements on two separate State-owned parcels of land situated near shoreline public access routes in Puako, Lalamilo, South Kohala, Hawaii, to install two signs to educate beachgoers and ocean recreation users about the protection of coral reefs. See Exhibits A-1, A-2 and B attached for the proposed locations of the signs.

Applicant is undertaking a program to locate these signs at sites with frequent recreational use throughout the State. The sign was developed through a collaborative effort of private and government entities, including the Department of Land and Natural Resource's Division of Aquatic Resources. The dimensions of the sign are 36" x 24". The sign bears the heading "Respecting Coral Reefs" in prominent lettering, with additional information about living corals and the damage that swimmers, snorkelers and divers can cause to them. The sign advises such recreational users to view corals from a distance. The sign also advises people not to feed fish. See Exhibit B attached for more information about the sign.

Applicant intends to secure sponsorship for the installation of each sign at a cost of approximately \$1,650. A sponsor will have the option of having its logo placed on the sign in dimensions of approximately 3" x 4". The signs will be mounted on poured concrete footings with dimensions of 3' x 2' x 3' (LWH). Applicant will work with community members to install the signs and maintain them in a useful and legible condition.

TMK 3rd/ 6-9-01:02 is located seaward of the Puako Beach Lots in Puako Village. TMK 3rd/ 6-9-06:03 is one of the Puako Beach Lots.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

On October 21, 2008, staff sent a request for comments on the proposed action to State and County of Hawaii agencies, with responses noted as follows:

Agency	Date Received	Response
Department of Health, Environmental Division	NA	No response
DLNR – Aquatic Resources	NA	No response
DLNR – Forestry & Wildlife	NA	No response
DLNR – Historic Preservation	11/17/08	No known historic properties within the location proposed for sign installation. Cease work and contact Historic Preservation if historic resources encountered during construction activities.
DLNR – State Parks	10/29/08	State Parks has received similar requests for installation of signs. Key issues for State Parks are ADA compliance and maintenance obligations.
DLNR – Office of Conservation and Coastal Lands	NA	No response
DLNR – Engineering	11/7/08	No objections
Office of Hawaiian Affairs	11/19/08	Subject lands are ceded lands that hold considerable sentimental, historical and legal significance for Native Hawaiians. OHA is supportive of proposed signs as educational tools.
County Planning Department	11/5/08	No objections
County Parks & Recreation	NA	No response
County Public Works	10/30/08	No comments
County Environmental Management	10/29/08	No comments

In response to the comments received from State Historic Preservation, staff will include the standard condition in the construction right-of-entry requiring Applicant to stop work and contact Historic Preservation if historic resources are encountered during the

installation of the signs.

In response to the comments received from State Parks, staff notes that the standard easement instrument used by Land Division provides that the grantee must observe all federal, state, and county laws in the exercise of grantee's rights under the easement. However, staff has included a specific requirement above that the Applicant comply with the Americans with Disabilities Act, as amended (ADA), to the extent the ADA applies to the installation and maintenance of the signs on unencumbered and vacant State land. The standard easement instrument also includes language requiring that the grantee "shall keep the easement area and the improvements thereon in a safe, clean, sanitary, and orderly condition". Accordingly, staff believes that maintenance concerns are adequately addressed by the standard easement instrument.

The parcels are not located in a Conservation District. However, they are located in an SMA. Applicant will be required to submit an SMA Use Permit Assessment Application to the County of Hawaii Planning Department and obtain either an SMA permit or SMA exemption for the sign installations.

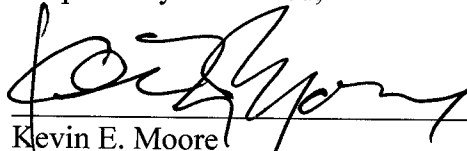
Applicant is a non-profit, Internal Revenue Code Section 501(c)(3) organization and the proposed signs will serve a public purpose. Accordingly, staff is recommending that no rent be charged for the easements. Staff is further recommending that Applicant be granted a construction right-of-entry, once it has complied with the SMA condition above, to install the signs pending finalization of the easement documents.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the Chairperson to execute a Special Management Area Use Permit Assessment Application for the proposed sign installation on behalf of the Department of Land and Natural Resources as landowner.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of term, non-exclusive easements to The Nature Conservancy covering the subject areas for educational reef etiquette sign purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;


- B. The easements shall not be assigned without the prior written consent of the Board of Land and Natural Resources.
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a construction right-of-entry to The Nature Conservancy to remain in effect until the easement documents are executed, subject to the following:
- A. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,




Kevin E. Moore
Hawaii District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





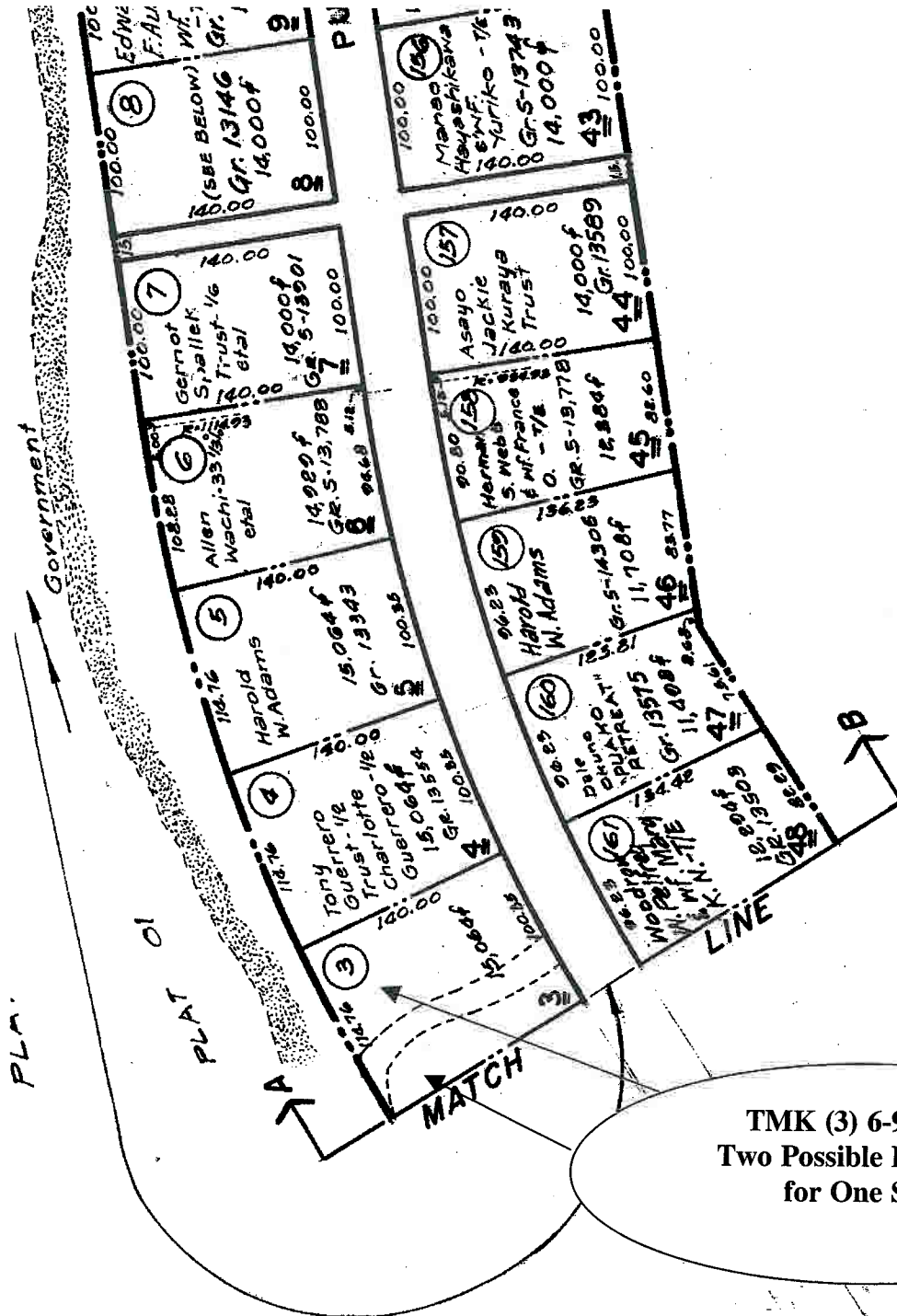
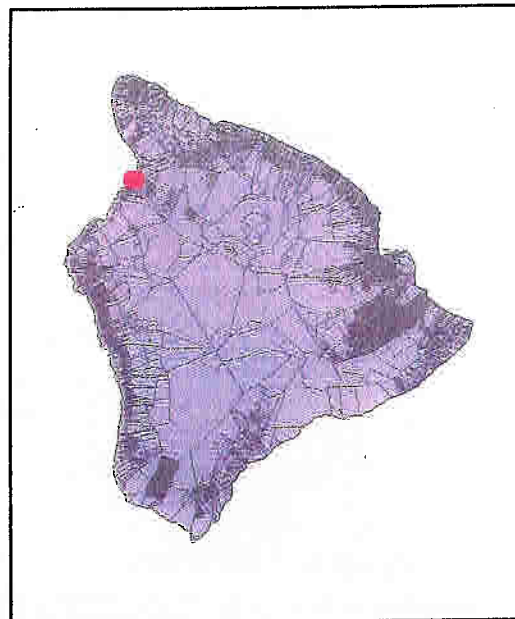
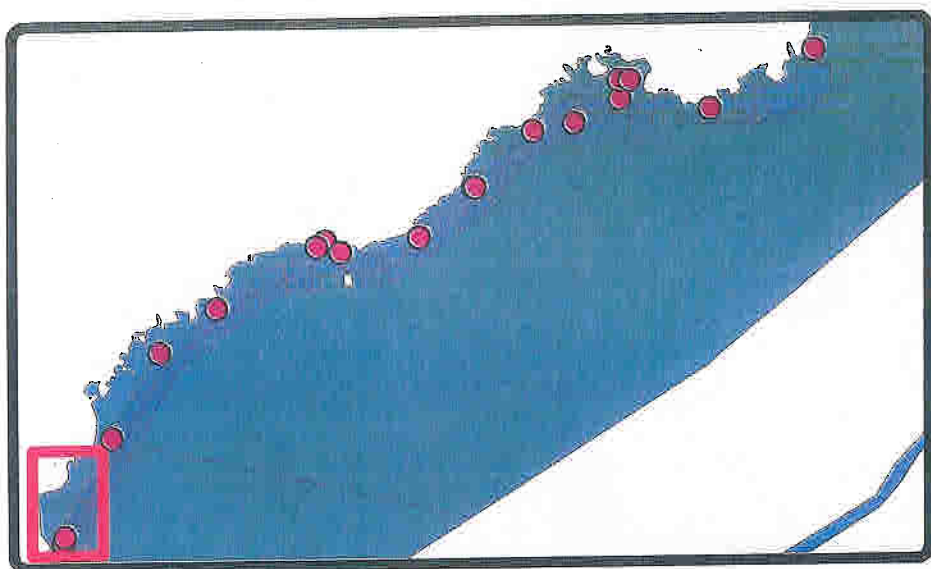


EXHIBIT A-2

TMK Information for potential Paniau Reef Signs



0 30 60 120 Meters

Legend

- Govt. County of Hawaii
- Govt. State
- other

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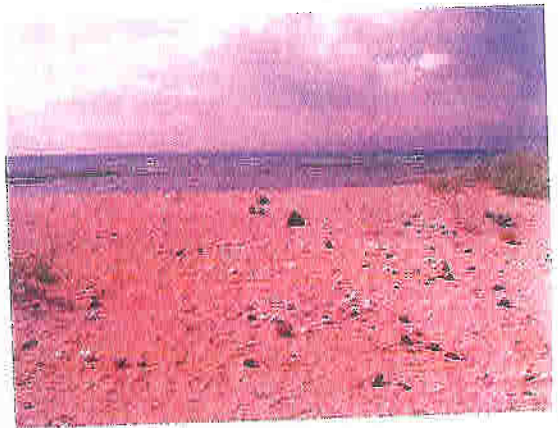
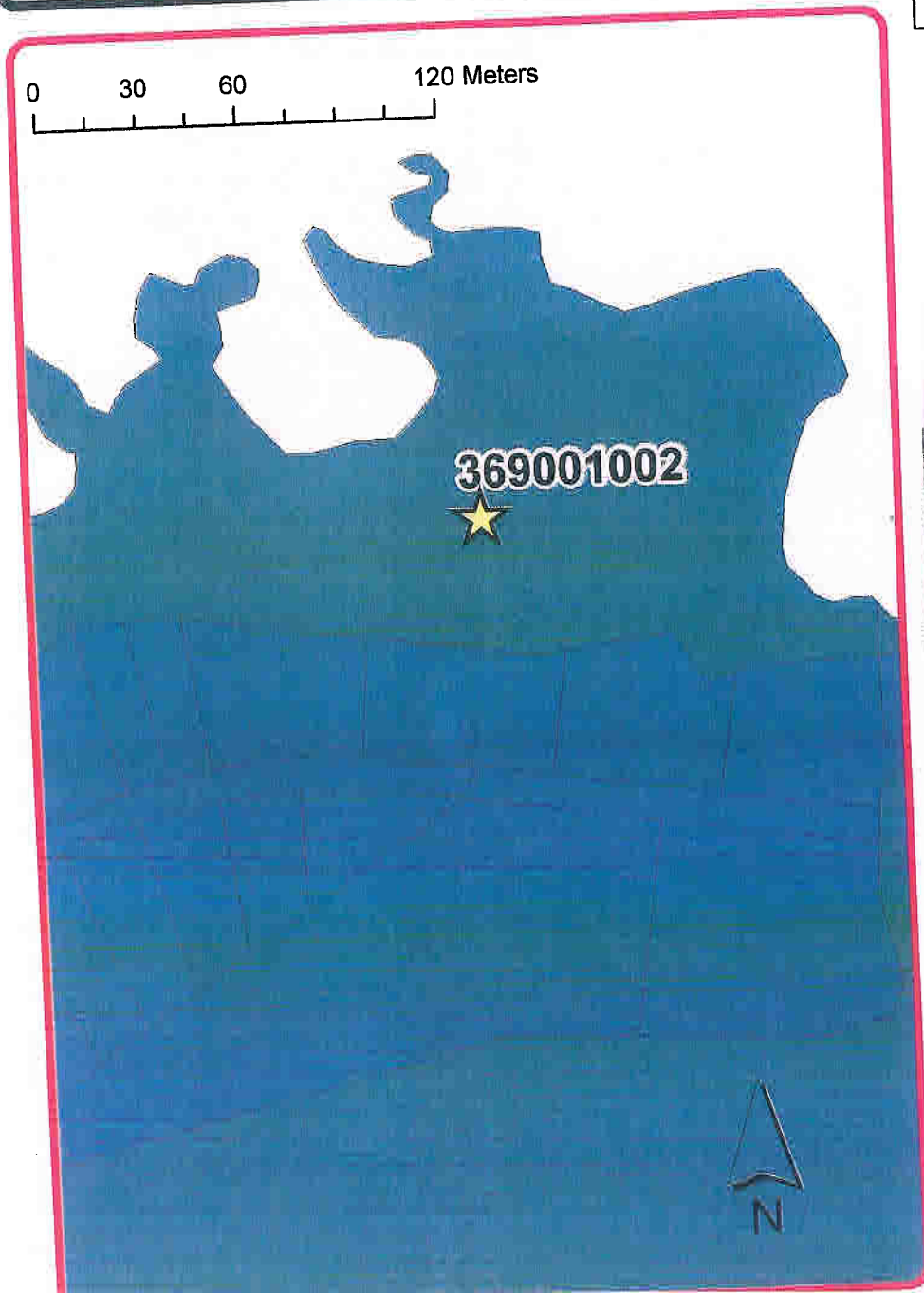
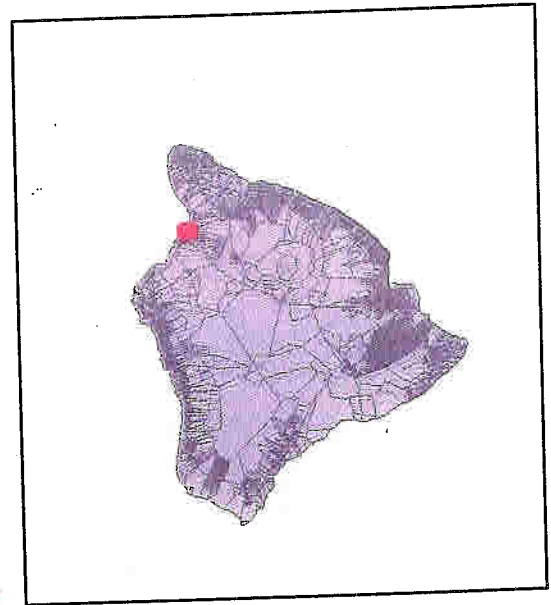
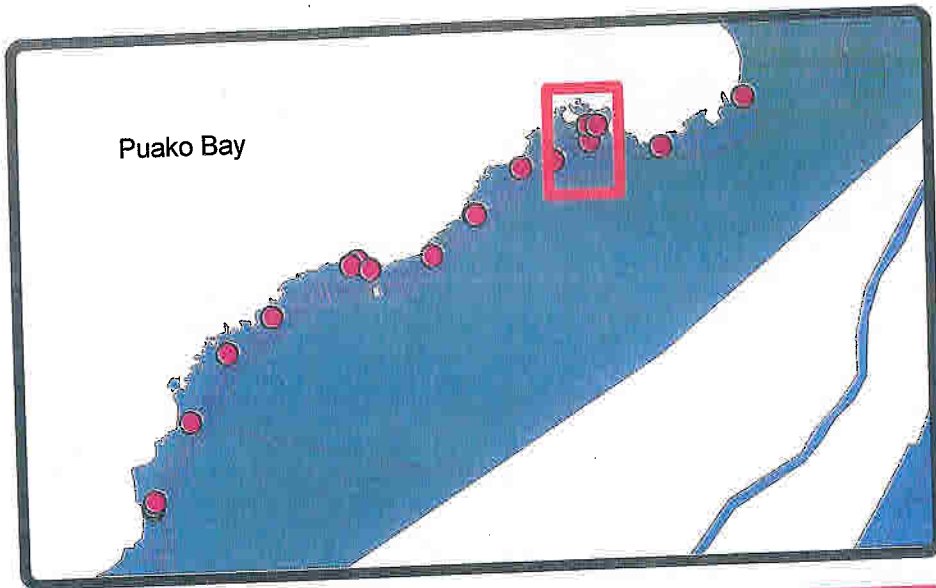
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EXHIBIT B



TMK Information for potential Puako Reef Sign



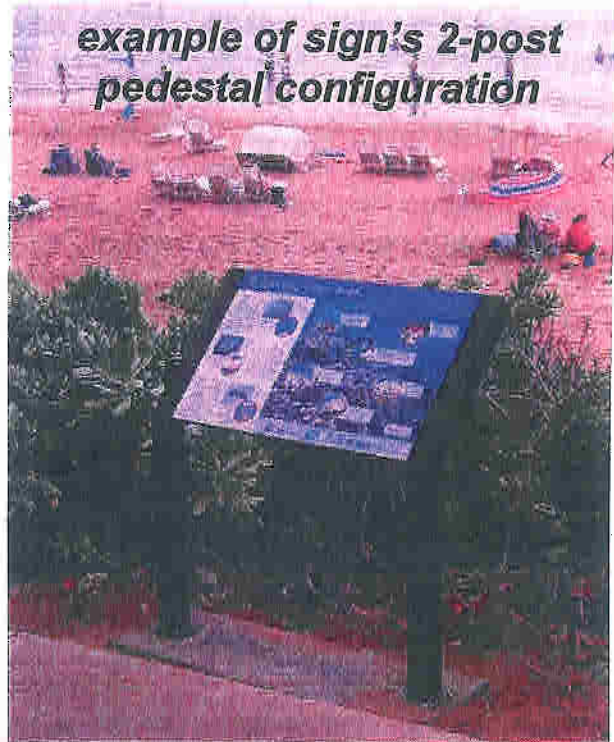
Legend

- Govt. County of Hawaii
- Govt. State
- other

Adopt a Sign Project

**YOU can
sponsor the
installation of a
Reef Etiquette
sign at beach
access locations
across the state!**

*example of sign's 2-post
pedestal configuration*



**We will
include your
logo and the
name of your
business or
organization
on the sign.**

Sign Installation:

You will be responsible for the installation of your sign. There are many in the community that may be willing to donate their services to help you install your sign. Our design team may be able to help connect you with individuals, companies, and organizations that can help, so please contact us if you have any questions or require further guidance.

For those ordering signs for islands other than Maui, we would like any assistance possible identifying community members willing to volunteer their services to get signs installed.

If you will need to contract a company to install your sign, be prepared to pay somewhere in the neighborhood of \$750-\$1,250.

Specifications for Sign installation:

At the end of this document you will find diagrams that show the pedestals and how the sign itself mounts to them, as well as diagrams for installing the pedestal to a new concrete footing.

Security bolts and a hex key required to mount the sign to the pedestal are provided. The threaded inserts on the back of the signs for the bolts will come bored out of the signs ready for assembly. It is possible that you will need to provide stainless steel washers to make up for any extra space between the security bolt heads and the pedestal "L" bracket.

The hardware required to mount them into the concrete footing shown on the third spec sheet does **NOT** come with the signs. The diagram shows "L" bolts, also called "J" bolts, set into a concrete block. This type of installation requires the concrete to be set with the bolts in place. The vendor suggested creating a cardboard template based off of the bottom of the pedestal stand for setting the "L" bolts into the concrete when it's poured.

It is also possible to install these signs into existing concrete footing using a concrete drill and special anchors and screws ("L" bolts can't be drilled into existing concrete).

Sign Security, Durability & Vandalism Issues:

The signs are made out of a "high pressure laminate" that is guaranteed not to fade in the sun or other outdoor conditions for 10 years. The material is also resistant to spray paint, as it can be cleaned with paint remover or similar chemicals without damaging the sign.

Sponsors will assume a "caretaker" role for their sign. Please be aware that there is always the possibility of vandalism or theft of the sign, and consider those factors when you choose a site for installation. Also note that the warranty only covers the sign's resistance to sun exposure; signs will not be replaced if stolen. While considered an unlikely scenario, we have outlined a few simple things that can be done to deter theft.

The security bolts that fasten the sign to the pedestal require a special hex key (provided) to remove the bolts. The bolts and washers you will need to provide to mount the pedestal into a cement footing will probably be standard hardware, so there is a possibility someone could remove the washers and take the whole pedestal with the sign. To protect against this possibility, epoxy can be used on the washers/bolts, or you can smash the threads on the bolts after the sign has been installed to prevent someone from unscrewing the washers. Some of our sponsors have also chosen to use epoxy on the security bolts that mount the sign to the pedestal. Be aware that using epoxy or damaging threads on bolts will require cutting the bolts if they need to be removed in the future for any reason.

More Background on the Sign:

"Respecting Coral Reefs" teaches visitors and residents how they can respect and help protect the delicate coral reef ecosystem. This sign is intended to be placed anywhere people can benefit from reef etiquette tips. The content was developed by the "design team" of Liz Foote, Megan Webster, and Russell Sparks, with extensive input from many individuals, organizations, and agencies statewide. The graphic design was done by Geoff Moore of Silver Moon Art and Design, and the beautiful images were donated by photographers across the state (Mike Roberts of Reeflections Underwater Photography, Brandoch Calef, Heather Spalding, John Hoover, George Balazs, Ziggy Livnat, Russell Sparks, and Liz Foote.) The Reef Etiquette sign was designed to be general enough to apply anywhere in the state; potential sponsors can contact the design team for more information.

The sign itself is a 36" x 24" (1" thick with rounded corners) Full Color Exterior Laminate Sign, with a 10 year warranty against fading. Your order will include the sign, as well as its double post cantilever pedestal, and all the hardware necessary for installation.


The sign will also be made available as a poster that can be displayed by businesses, organizations, or schools to be used for educational purposes; please contact Liz Foote for more information.

Respecting Coral Reefs

We all know it's vital to protect and preserve our beautiful Hawaiian coral reefs. Hawaii's coral reefs provide a home for over 1,000 species of unique plants and animals. 25% of the world's marine life depends on healthy coral reefs. They are important to all of us in Hawaii and around the world. Please do your part to keep the Hawaiian reefs healthy.


Coral Are Alive

Coral is a living organism that grows in the water. It is made of tiny animals called polyps. These polyps build a hard skeleton that other corals and sea anemones live on. Coral grows very slowly, about 1 centimeter per year. It can live for hundreds of years. Coral is very fragile and can be easily damaged by divers, snorkelers, and boats. Please do your part to keep the coral healthy.




Fish Don't Need Feeding


Fish have evolved to survive in the wild and require no artificial feeding. Feeding fish can harm the reef by introducing harmful bacteria and chemicals. It can also make the fish dependent on humans and alter their natural behavior. Please do your part to keep the reef healthy.



Respect Marine Life

Please do not touch, kick, or stand on coral reefs. Do not use reef shoes or fins. Do not throw anything away. Do not use sunscreen that contains oxybenzone or octinoxate. Please do your part to keep the reef healthy.





Endemic Species
 These fish, coral, and other marine life are found only in Hawaii and are very rare. Please do your part to keep them safe.

Allopathic species
 These fish, coral, and other marine life are found in many other parts of the world. Please do your part to keep them safe.











Cleaning Stations
 These are places where divers can clean their gear and themselves. Please do your part to keep them clean.

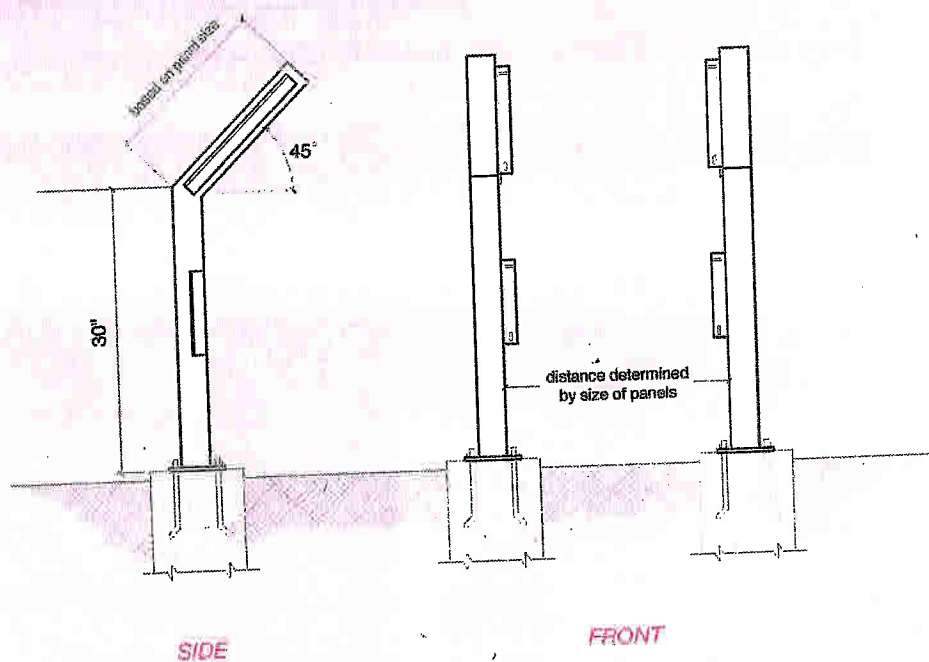
Proper Buoy Control
 Please do not touch the reef. Use your buoy to keep yourself up and avoid the reef.

Celexone Corals
 These are a type of coral that are very sensitive to chemicals. Please do your part to keep them safe.

Take Care of the Reef
 Please do not touch, kick, or stand on the reef. Please do your part to keep the reef healthy.

This program is made possible through the generous support of the following agencies & organizations:



CANTILEVER SUPPORTS

Part #: CD224

* Custom sizes available upon request